

As Amended by House Committee

As Amended by Senate Committee

Session of 2021

SENATE BILL No. 175

By Committee on Public Health and Welfare

2-8

1 AN ACT concerning health and healthcare; relating to hospitals and
2 healthcare-related facilities; establishing rural emergency hospitals as a
3 rural healthcare licensure category; requirements for licensure; enacting
4 the rural emergency hospital act; **providing grant assistance to**
5 **hospitals in certain counties; prescribing powers, duties and**
6 **functions of the secretary of health and environment related**
7 **thereto; establishing the rural hospital innovation grant program**
8 **and rural hospital innovation grant fund;** amending K.S.A. 65-425
9 and 65-431 and repealing the existing sections.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 New Section 1. Sections 1 through 8, and amendments thereto, shall
13 be known and may be cited as the rural emergency hospital act.

14 New Sec. 2. The legislature of the state of Kansas recognizes the
15 importance and necessity of providing and regulating the system by which
16 healthcare services are structured and integrated to promote the availability
17 of and access to necessary and appropriate healthcare to protect the general
18 health, safety and welfare of the rural residents of Kansas. The legislature
19 of the state of Kansas seeks to: Improve the health of the rural population
20 of Kansas; preserve access to healthcare; encourage collaboration among
21 rural healthcare providers; promote delivery of quality rural healthcare;
22 promote efficiency and efficacy of rural healthcare; embrace technology in
23 the delivery of rural healthcare; and promote adequate and fair
24 reimbursement for rural healthcare services. To this end, it is the policy of
25 the state of Kansas to create a category of licensure to enable certain
26 Kansas hospitals to receive federal healthcare reimbursement as rural
27 emergency hospitals, and the implementation of this act facilitates such
28 policy.

29 New Sec. 3. As used in the rural emergency hospital act:

30 (a) "Act" means the rural emergency hospital act.

31 (b) "Rural emergency hospital" means an establishment that:

32 (1) Meets the eligibility requirements described in section 4, and
33 amendments thereto;

34 (2) provides rural emergency hospital services;

1 (3) provides rural emergency hospital services in the facility 24 hours
2 per day by maintaining an emergency department that is staffed 24 hours
3 per day, 7 days per week, with a physician, nurse practitioner, clinical
4 nurse specialist or physician assistant;

5 (4) has a transfer agreement in effect with a level I or level II trauma
6 center; and

7 (5) meets such other requirements as the department of health and
8 environment finds necessary in the interest of the health and safety of
9 individuals who are provided rural emergency hospital services and to
10 implement state licensure that satisfies requirements for reimbursement by
11 federal healthcare programs as a rural emergency hospital.

12 (c) "Rural emergency hospital services" means the following services,
13 provided by a rural emergency hospital, that do not require in excess of an
14 annual per-patient average of 24 hours in such rural emergency hospital:

15 (1) Emergency department services and observation care; and

16 (2) at the election of the rural emergency hospital, for services
17 provided on an outpatient basis, other medical and health services as
18 specified in regulations adopted by the United States secretary of health
19 and human services and authorized by the department of health and
20 environment.

21 (d) "Secretary" means the secretary of health and environment.

22 New Sec. 4. (a) A facility shall be eligible to apply for a rural
23 emergency hospital license if such facility, as of December 27, 2020, was
24 a:

25 (1) Licensed critical access hospital;

26 (2) general hospital with not more than 50 licensed beds located in a
27 county in a rural area as defined in section 1886(d)(2)(D) of the federal
28 social security act; or

29 (3) general hospital with not more than 50 licensed beds that is
30 deemed as being located in a rural area pursuant to section 1886(d)(8)(E)
31 of the federal social security act.

32 (b) A facility applying for licensure as a rural emergency hospital
33 shall include with the licensure application:

34 (1) An action plan for initiating rural emergency hospital services,
35 including a detailed transition plan that lists the specific services that the
36 facility will retain, modify, add and discontinue;

37 (2) a description of services that the facility intends to provide on an
38 outpatient basis; and

39 (3) such other information as required by rules and regulations
40 adopted by the department of health and environment.

41 (c) A rural emergency hospital shall not have inpatient beds, except
42 that such hospital may have a unit that is a distinct part of such hospital
43 and that is licensed as a skilled nursing facility to provide post-hospital

1 extended care services.

2 (d) A rural emergency hospital may own and operate an entity that
3 provides ambulance services.

4 (e) A licensed general hospital or critical access hospital that applies
5 for and receives licensure as a rural emergency hospital and elects to
6 operate as a rural emergency hospital shall retain its original license as a
7 general hospital or critical access hospital. Such original license shall
8 remain inactive while the rural emergency hospital license is in effect.

9 New Sec. 5. All rural emergency hospitals, including city, county,
10 hospital district or other governmental or quasi-governmental hospitals,
11 shall be authorized to enter into any contracts required to be eligible for
12 federal reimbursement as a rural emergency hospital.

13 New Sec. 6. In addition to the provisions of K.S.A. 65-4909, and
14 amendments thereto, entities engaging in activities and entering into
15 contracts required to meet the requirements for licensure and
16 reimbursement as a rural emergency hospital, and officers, agents,
17 representatives, employees and directors thereof, shall be considered to be
18 acting pursuant to clearly expressed state policy as established in this act
19 under the supervision of the state. Such entities shall not be subject to state
20 or federal antitrust laws while acting in such manner.

21 New Sec. 7. The secretary shall adopt rules and regulations
22 establishing minimum standards for the establishment and operation of
23 rural emergency hospitals in accordance with this act, including licensure
24 of rural emergency hospitals.

25 New Sec. 8. Each individual and group policy of accident and
26 sickness insurance, each contract issued by a health maintenance
27 organization, ~~each managed care contract for the state program of medical~~
28 ~~assistance authorized by K.S.A. 39-709, and amendments thereto, the~~
29 ~~children's health insurance program authorized under K.S.A. 38-2001, and~~
30 ~~amendments thereto, any~~ **and all** coverage maintained by an entity
31 authorized under K.S.A. 40-2222, and amendments thereto, or by a
32 municipal group-funded pool authorized under K.S.A. 12-2618, and
33 amendments thereto, shall provide benefits for services when performed
34 by a rural emergency hospital if such services would be covered under
35 such policies, contracts or coverage if performed by a general hospital ~~or~~
36 ~~critical access hospital.~~

37 **New Sec. 9. (a) As used in this section:**

38 **(1) "Eligible county" means a county in Kansas other than**
39 **Douglas, Johnson, Sedgwick, Shawnee or Wyandotte county.**

40 **(2) "Hospital" means the same as defined in K.S.A. 65-425, and**
41 **amendments thereto.**

42 **(3) "Transitional assistance" means any assistance related to**
43 **changing a hospital's current healthcare delivery model to a model**

1 more appropriate for the community that the hospital serves,
2 including, but not limited to: Conducting a market study of healthcare
3 services needed and provided in the community; acquiring and
4 implementing new technological tools and infrastructure, including,
5 but not limited to, telemedicine delivery methods; and acquiring the
6 services of appropriate personnel, including, but not limited to,
7 additional medical residents or individuals trained to be needed
8 healthcare professionals.

9 (b) (1) There is established the rural hospital innovation grant
10 program to be administered by the secretary of health and
11 environment. The program, and any grant awarded thereunder, shall
12 be for the purpose of strengthening and improving the healthcare
13 system and increasing access to healthcare services in eligible counties
14 to help communities in such counties achieve and maintain optimal
15 health by providing transitional assistance to hospitals in such
16 counties. The secretary may award a rural hospital innovation grant
17 to a county that applies in accordance with this section.

18 (2) The secretary of health and environment may award a grant
19 under this section only if the amount of state moneys to be awarded in
20 the grant has been matched by private stakeholders, including
21 hospital foundations or other organizations, contributing to the
22 secretary for the program, on a basis of \$2 of private stakeholder
23 moneys for every \$1 of state moneys. The secretary of health and
24 environment may receive moneys by bequest, donation or gift to fulfill
25 the public-private match of moneys required under this paragraph.
26 Any such moneys received shall be remitted to the state treasurer in
27 accordance with K.S.A. 75-4215, and amendments thereto. Upon
28 receipt of each such remittance, the state treasurer shall deposit the
29 entire amount in the state treasury to the credit of the rural hospital
30 innovation grant fund. A private stakeholder may certify to the
31 secretary of health and environment that an amount of money is
32 dedicated to the rural hospital innovation grant program. Such
33 certified dedicated moneys shall remain with the private stakeholder
34 until such time as the grant is awarded, and the secretary shall count
35 such certified dedicated moneys to fulfill the public-private match
36 required under this paragraph.

37 (3) A private stakeholder who has contributed moneys or certified
38 dedicated moneys to the secretary of health and environment may
39 specify a county to receive a grant using such private stakeholder's
40 moneys. If the secretary does not award a grant to the specified county
41 in the same fiscal year as such request, the secretary shall return the
42 amount of contributed moneys to the private stakeholder and any
43 such certification shall lapse.

1 **(4) Prior to applying for a rural hospital innovation grant, any**
2 **eligible county may enter into memorandums of understanding and**
3 **other necessary agreements with private stakeholders and other**
4 **eligible counties.**

5 **(5) The board of county commissioners of an eligible county, or**
6 **the board's designee, may apply to the secretary for a rural hospital**
7 **innovation grant in the form and manner prescribed by the secretary**
8 **of health and environment. Such application shall include:**

9 **(A) A description of the hospital for which the grant moneys will**
10 **be expended, including the name and location of the hospital;**

11 **(B) a statement of the amount of grant moneys requested;**

12 **(C) a description of the needs of the hospital, the transitional**
13 **assistance for which the grant moneys will be expended and how such**
14 **transitional assistance will meet the stated needs; and**

15 **(D) any other information that the secretary deems necessary to**
16 **administer this section.**

17 **(6) Prior to awarding any grant moneys to an eligible county**
18 **under this section, the secretary shall enter into a written agreement**
19 **with the county requiring that the county:**

20 **(A) Expend any such grant moneys to provide transitional**
21 **assistance to a hospital in the eligible county, as approved by the**
22 **secretary;**

23 **(B) not later than one year after any such grant moneys are**
24 **awarded, report to the secretary detailing the effect that such grant is**
25 **having on health and other outcomes in the eligible county and the**
26 **affected community;**

27 **(C) repay all awarded grant moneys to the secretary if the county**
28 **fails to satisfy any material term or condition of the grant agreement;**
29 **and**

30 **(D) any other terms and conditions that the secretary deems**
31 **necessary to administer this section.**

32 **(c) (1) There is established in the state treasury the rural hospital**
33 **innovation grant fund to be administered by the secretary of health**
34 **and environment. All moneys credited to the fund shall be used only**
35 **for purposes related to the rural hospital innovation grant program.**
36 **All expenditures from the fund shall be made in accordance with**
37 **appropriation acts upon warrants of the director of accounts and**
38 **reports issued pursuant to vouchers approved by the secretary of**
39 **health and environment or the secretary's designee.**

40 **(2) On July 1, 2021, the director of accounts and reports shall**
41 **transfer \$10,000,000 from the state general fund to the rural hospital**
42 **innovation grant fund.**

43 **(d) The secretary of health and environment shall adopt rules and**

1 regulations as necessary to implement and administer this section.

2 (e) (1) On or before October 1 of each year, for each rural
3 hospital innovation grant awarded under this section, the county shall
4 prepare and submit to the secretary of health and environment a
5 report describing: The amount and stated purposes of any awarded
6 grant moneys; the fulfillment of the terms and conditions of the grant
7 agreement; and the transitional assistance upon which the moneys
8 have been spent.

9 (2) On or before February 1 of each year, the secretary shall
10 compile the information received under this subsection and submit a
11 report to the governor and the legislature including such information
12 and a description of and reasoning for any applications for a rural
13 hospital innovation grant that the secretary has denied.

14 (f) (1) The rural hospital innovation grant program shall expire
15 on June 30, 2025.

16 (2) On July 1, 2025:

17 (A) The director of accounts and reports shall transfer all moneys
18 in the rural hospital innovation grant fund to the state general fund;

19 (B) all liabilities of the rural hospital innovation grant fund shall
20 be transferred to and imposed on the state general fund; and

21 (C) the rural hospital innovation grant fund shall be abolished.

22 Sec. ~~9~~ 10. K.S.A. 65-425 is hereby amended to read as follows: 65-
23 425. As used in this act:

24 (a) "General hospital" means an establishment with an organized
25 medical staff of physicians; with permanent facilities that include inpatient
26 beds; and with medical services, including physician services, and
27 continuous registered professional nursing services for not less than 24
28 hours of every day, to provide diagnosis and treatment for patients who
29 have a variety of medical conditions.

30 (b) "Special hospital" means an establishment with an organized
31 medical staff of physicians; with permanent facilities that include inpatient
32 beds; and with medical services, including physician services, and
33 continuous registered professional nursing services for not less than 24
34 hours of every day, to provide diagnosis and treatment for patients who
35 have specified medical conditions.

36 (c) "Person" means any individual, firm, partnership, corporation,
37 company, association, or joint-stock association, and the legal successor
38 thereof.

39 (d) "Governmental unit" means the state, or any county, municipality,
40 or other political subdivision thereof; or any department, division, board or
41 other agency of any of the foregoing.

42 (e) "Licensing agency" means the department of health and
43 environment.

1 (f) "Ambulatory surgical center" means an establishment with an
2 organized medical staff of one or more physicians; with permanent
3 facilities that are equipped and operated primarily for the purpose of
4 performing surgical procedures; with continuous physician services during
5 surgical procedures and until the patient has recovered from the obvious
6 effects of anesthetic and at all other times with physician services available
7 whenever a patient is in the facility; with continuous registered
8 professional nursing services whenever a patient is in the facility; and
9 which does not provide services or other accommodations for patient to
10 stay more than 24 hours. Before discharge from an ambulatory surgical
11 center, each patient shall be evaluated by a physician for proper anesthesia
12 recovery. Nothing in this section shall be construed to require the office of
13 a physician or physicians to be licensed under this act as an ambulatory
14 surgical center.

15 (g) "Recuperation center" means an establishment with an organized
16 medical staff of physicians; ~~with~~, permanent facilities that include
17 inpatient beds; ~~and with~~, medical services, including physician services,
18 and continuous registered professional nursing services for not less than 24
19 hours of every day, to provide treatment for patients who require inpatient
20 care but are not in an acute phase of illness, who currently require primary
21 convalescent or restorative services; and who have a variety of medical
22 conditions.

23 (h) "Medical care facility" means a hospital, ambulatory surgical
24 center or recuperation center, ~~but shall~~ *except that "medical care facility"*
25 *does not include a hospice* ~~which~~ *that is certified to participate in the*
26 *medicare program under 42 code of federal regulations, chapter IV, section*
27 *C.F.R. § 418.1 et seq. and amendments thereto* ~~and which~~ *that provides*
28 *services only to hospice patients.*

29 (i) "Critical access hospital" ~~shall have the meaning ascribed to such~~
30 ~~term under~~ *means the same as defined in K.S.A. 65-468 and amendments*
31 *thereto.*

32 (j) "Hospital" means "general hospital," "critical access hospital," or
33 "special hospital."

34 (k) "Physician" means a person licensed to practice medicine and
35 surgery in this state.

36 (l) "*Rural emergency hospital*" *means the same as defined in section*
37 *2, and amendments thereto.*

38 ~~Sec. 10. 11.~~ K.S.A. 65-431 is hereby amended to read as follows: 65-
39 431. (a) The licensing agency shall adopt, amend, promulgate and enforce
40 such rules and regulations and standards with respect to the different types
41 of medical care facilities to be licensed hereunder as may be designed to
42 further the accomplishment of the purposes of this law in promoting safe
43 and adequate treatment of individuals in medical care facilities in the

1 interest of public health, safety and welfare.

2 (b) No rule or regulation shall be made by the licensing agency ~~which~~
3 *that* would discriminate against any practitioner of the healing arts who is
4 licensed to practice medicine and surgery in this state. Boards of trustees
5 or directors of facilities licensed pursuant to the provisions of this act shall
6 have the right, in accordance with law, to select the professional staff
7 members of such facilities and to select and employ interns, nurses and
8 other personnel, and no rules and regulations or standards of the licensing
9 agency shall be valid ~~which~~ *that*, if enforced, would interfere in such
10 selection or employment. In the selection of professional staff members,
11 no hospital licensed under K.S.A. 65-425 et seq., *and amendments thereto*,
12 shall discriminate against any practitioner of the healing arts who is
13 licensed to practice medicine and surgery in this state for reasons based
14 solely upon the practitioner's branch of the healing arts or the school or
15 ~~health-care~~ *healthcare* facility ~~in which~~ *where* the practitioner received
16 medical schooling or postgraduate training.

17 (c) In formulating rules and regulations, the agency shall give due
18 consideration to the size of the medical care facility, the type of service it
19 is intended to render, the scope of such service, *requirements for the*
20 *receipt of federal reimbursement for the type of medical care facility* and
21 the financial resources in and the needs of the community which such
22 facility serves.

23 (d) (1) A hospital consisting of more than one establishment shall be
24 considered in compliance with the rules and regulations of the licensing
25 agency if:

26 (A) All basic services required by the agency are available as a part of
27 the combined operation; and ~~if~~

28 (B) the following basic services are available at each establishment:

29 (i) Continuous nursing service;;

30 (ii) continuous physician coverage on duty or on call;;

31 (iii) basic diagnostic radiological and laboratory facilities;;

32 (iv) drug room;;

33 (v) emergency services;;

34 (vi) food service; and

35 (vii) patient isolation.

36 (2) *The requirements of paragraphs (1)(A) and (B) shall be deemed*
37 *to be satisfied by a rural emergency hospital if such rural emergency*
38 *hospital meets the licensing requirements established for such hospital by*
39 *the licensing agency.*

40 Sec. ~~11~~ **12.** K.S.A. 65-425 and 65-431 are hereby repealed.

41 Sec. ~~12~~ **13.** This act shall take effect and be in force from and after
42 its publication in the statute book.